

## **REMARKS/ARGUMENTS**

Claims 2-7, 10, 24-31 and 35 will remain pending in the case.

Applicants acknowledge with appreciation that the rejections under 35 U.S.C. Section 112, first paragraph were withdrawn in the Office Action.

Applicants note that the drawing (in this case comprised simply of Fig. 1), is objected to for the reasons set forth in the Notice of Patent Draftperson's Review dated October 28, 1999 in the case. Applicants attach hereto a replacement drawing sheet that is believed to overcome the rejections set forth in the October 28, 1999 Notice. Specifically, lines have been darkened and the reference characters in Fig. 1 are at least 1/8 inch tall.

With regard to compliance with the Sequence Rules, Applicants respectfully assert that the case as pending was fully compliant with the Sequence Rules. However to remove issues from the case, Applicants are submitting herewith a substitute Sequence Listing in both paper and computer readable form and the required statement. Applicants hereby direct entry of the substitute Sequence Listing in both its paper and computer readable forms into the specification.

Page 4 of the Office Action rejects Claims 2-7, 10, 24-31 and 35 under 35 U.S.C. Section 112, second paragraph. Applicants believe the claims as filed were not indefinite, but appreciate the Examiner pointing out how they might be improved. Applicants have adopted the Examiner's suggestions set forth on page 4 of the Office Action with regard to the 112 rejections, and believe that the Section 112 rejection has now been overcome.

Pages 4-6 reject Claim 35 under 35 U.S.C. Sections 102(b) and 103. Applicants respectfully traverse the rejection. However to remove issues from the case, Claim 35 has been amended as suggested on page 5 of the Office Action by amending part (b) to require that the claimed nucleic acid is complementary to the entire length of the nucleic acids recited in part (a) as suggested by the Office Action. With this amendment, both the 35 U.S.C. Section 102(b) and 103 rejections are believed to have been overcome.

**Statement that Sequence Listing and Computer Readable Copy Thereof Are  
the Same And That Papers Submitted Includes No New Matter**

I, Raymond J. Harmuth, Esq., Registration No. 33,896, the undersigned hereby state:

1. That the substitute computer readable form being submitted concurrently herewith is identical to the written substitute Sequence Listing also being submitted concurrently herewith;
2. That the amendments made in the substitute sheets of the Sequence Listing are supported in the application, as filed, and that the substitute sheets of the Sequence Listing do not include new matter. More particularly, the Sequence Listing has been amended to comply with the requirements set forth on page 3 of the Office Action dated October 21, 2003, to which this Amendment responds.

Applicants believe the case is in condition for allowance, and allowance of the pending claims is respectfully requested.

Respectfully submitted,

By   
Raymond J. Harmuth  
Attorney for Applicants  
Reg. No. 33,896

Bayer CropScience LP  
100 Bayer Road  
Pittsburgh, Pennsylvania 15205-9741  
PHONE: (412) 777-3916  
FACSIMILE PHONE NUMBER:  
(412) 777-3902  
s/rmc/rjh/0267